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In the Supreme Court of the United States

OCTOBER TERM, 1933

No. 56

ALASKA STEAMSHIP COMPANY, PETITIONER

v.

THE UNITED STATES OF AMERICA

ON A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the District Court [1] (R. 51–54) is reported in 60 F. (2d) 135. The opinion of the Circuit Court of Appeals (R. 69–78) is reported in 63 F. (2d) 398.

[1] Although this is a Tucker Act proceeding, the record includes findings of fact and conclusions of law (R. 41–50) submitted by petitioner's counsel to the trial court. These are not to be confused with the court's findings and rulings which appear in quotations and indented on pages 51–54 of the Record.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered February 13, 1933 (R. 79). The petition for certiorari was filed May 10, 1933, and was granted October 9, 1933. The jurisdiction of this Court rests on Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTION PRESENTED

Whether, under the statutes and regulations providing for the return to this country of destitute or shipwrecked seamen, a vessel owner is entitled to recover from the Government compensation for transporting on one of its own vessels the crew of another vessel owned and operated by it which had become disabled in Alaska.

STATUTES AND REGULATIONS INVOLVED

The statutes and regulations involved are set forth in the Appendix, *infra*, pp. 20–23.

STATEMENT

The S.S. *Depere*, owned by petitioner, en route from Cordova south to Ketchikan, Alaska, November 15, 1929, struck a rock off Cape Decision near Ketchikan, which required her to be beached. She became totally disabled and unable to complete her voyage (R. 30).[2] In response to radio messages,

[2] The New York Maritime Register, published weekly, shows under date of November 18, 1929, that two steamers were sent from Seattle, Washington, to salvage the vessel; November 23, 1929, floated and taken into Port MacArthur;

a Coast Guard cutter, on November 16, 1929, came to the wreck and took aboard thirty men, and the following day returned them to the port of Ketchikan, Alaska, to which the steamship was bound (R. 30–31). It is proper to assume that the master and chief engineer remained by the vessel, as they do not appear on the list of thirty men which were removed by the cutter and later returned to Seattle (R. 33–35). The Deputy Collector of Customs provided the crew with lodging and subsistence at Ketchikan, and on November 20, 1929, under Section 4578 R.S., as amended (U.S.C., Title 46, Sec. 679) (*infra*, p. 20), required the master of the *Yukon*, then en route from Alaskan ports to Seattle, which had stopped at Ketchikan, to carry from Ketchikan to Seattle the thirty members of the crew of the *Depere*, issuing a certificate fixing the compensation for transportation and agreeing with the master that upon presentation of the certificate at the Treasury Department, properly endorsed, the master would be entitled to receive the passage money (R. 31–37). The *Yukon* landed these men at Seattle on November 22, 1929 (R. 37).

The Comptroller General, upon presentation of the certificate, declined payment, for the reason that the duty of relieving and transporting the crew of shipwrecked vessels is primarily that of the

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November 29, 1929, the *Depere* left Ketchikan in tow and arrived at Seattle December 6, 1929, when cargo was discharged; December 9, 1929, the *Depere* drydocked. The vessel after repairs resumed service the following July.

owner or operator, and where this duty has been undertaken, the appropriation for the "Relief and Protection of American Seamen" is not available to reimburse the owner or operator for the expense incurred in performing such duty (R. 38).

This suit under the Tucker Act, based upon the certificate issued by the Deputy Collector of Customs was then instituted to recover the transportation charges (R. 1–8). In addition to these facts established at the hearing, evidence was also introduced that in three instances of previous disasters, in 1909 or 1910, and 1918, crews of petitioner's vessels shipwrecked in Alaskan waters had been returned on their other vessels and the transportation charges evidenced by like certificates paid (R. 39). The articles under which the crew of the *Depere* had shipped called for a voyage from the port of Seattle, Washington, to Ketchikan, Alaska, and such other ports and places in any part of Alaska and B.C. as the master might direct, and back to a final port of discharge in the United States (R. 52, 75).

The District Court (Neterer, J.) denied the claim, holding that when the seamen were returned upon another of its vessels the petitioner had only discharged its obligation to return them. The primary object of the related legislation was the relief of destitute seamen and not to benefit the steamship company. When the men were delivered to the *Yukon* they were no longer destitute (R. 54).

The Circuit Court of Appeals, although declining to adopt these rulings of the District Court, affirmed the judgment on other grounds. It considered that the suit to recover such transportation charges was rested solely upon the certificate issued by the Deputy Collector of Customs, the sole authority for which was Sections 4577 and 4578 R.S., as amended (U.S.C. Title 46, secs. 678, 679). These sections specifically limit such arrangement and the authority to issue such certificates solely to consular officers. It concluded that a certificate issued by a deputy collector of customs was not by a consular officer, and that judgment could not be entered based upon such a certificate. In similar situations, however, the administrative practice has been, as we are informed, for collectors and deputy collectors of customs to issue certificates such as would be issued by consular officials in foreign ports, and the Comptroller General has not refused to honor or pay any certificate thus issued by a collector or deputy collector in Alaska. His refusal in this case was not upon the ground that the deputy collector had no authority to act, but upon the ground that it was the duty of the petitioner, itself, as the owner or operator of the vessel, to transport the crew back to Seattle (R. 47–48). The District Court put its decision on substantially the same ground as the Comptroller General (R. 54).

SUMMARY OF ARGUMENT

1. This suit to recover transportation charges for the returned seamen, by the pleadings, was rested solely upon the certificate issued by the deputy collector of customs under assumed authority of R.S., Sections 4577 and 4578, as amended (U.S.C., Title 46, Secs. 678, 679), as establishing the indebtedness. These sections specifically limit the issuance of such certificates by consular officers. Deputy collectors of customs are not consular officers. Any payment for the services rendered, if there be the right thereto, must be rested upon a cause other than an indebtedness evidenced by the certificate itself.

2. The Comptroller General, since the question first received consideration, has uniformly ruled that when the owner of a wrecked vessel returns the members of the crew by another of its vessels, such owner may not be reimbursed from public funds for the costs of such transportation. Subsequent to these rulings, Congress reenacted the previously related statutes. Consistent construction in the administration of these statutes by the fiscal officer should be regarded as the authoritative interpretation of the related acts.

3. In returning the seamen, the petitioner only performed an obligation which the law imposed upon him and he is not entitled to be reimbursed for such transportation expense. This follows the practice in Great Britain. It is stated that this obligation is modified by the last sentence of Sec-

tion 4526, R.S., as amended (U.S.C., Title 46, Sec. 593). That provision intended to give American seamen the same status as British seamen. It should not be construed as giving owners of American vessels greater rights than British owners have under their laws.

ARGUMENT

I

The first related Act, Act of April 14, 1792, c. 24, 1 Stat. 254, 256, required the return of destitute seamen by shipmasters to be made upon the request of consuls or vice consuls. Section 4 of the supplemental Act of February 28, 1803, c. 9, 2 Stat. 203, 204, placed the duty upon "Consuls, vice-consuls, commercial agents, vice-commercial agents of the United States." These substantial requirements were carried forward as Sections 4577, 4578, and 4579 of the Revised Statutes. Section 9 of the Act of June 26, 1884, c. 121, 23 Stat. 53, 55, amended these sections and, as amended, they became Sections 679, 680, and 681 of Title 46, U.S. Code. (See Appendix, *infra,* pp. 20–23). They require (R.S. 4578, as amended) "all masters of vessels * * * to take such destitute seamen on board their vessels at the request of *consular officers,* and to transport them to the port of the United States" on such terms "as may be agreed between the master and the consular officer, when the transportation is by a sailing vessel; and said consular officer shall issue certificates for such transportation, *which certifi-*

cates shall be assignable for collection." (Italics ours.) The certificate issued here by the Deputy Collector of Customs (R. 8–13) evidences an agreement between the Deputy Collector and the master of the steamship *Yukon,* owned by petitioner, and was presented for payment by the petitioner.

Appropriations for the State Department providing relief for shipwrecked American seamen in the Territory of Alaska have been passed annually since 1896. Except for the years 1922 and 1923, the provisions of these Acts have been substantially the same. The Act making appropriations for the Department of State for the fiscal year ending June 30, 1930, approved January 25, 1929 (c. 102, 45 Stat. 1094, 1098) reads:

> For relief, protection, and burial of American seamen in foreign countries, in the Panama Canal Zone, and in the Philippine Islands, and shipwrecked American seamen in the Territory of Alaska, in the Hawaiian Islands, in Porto Rico, and in the Virgin Islands, $70,000.

Similar appropriations in 1922 and 1923 (c. 204, 42 Stat. 599, 603; c. 21, 42 Stat. 1068, 1072) are in the same wording but have a proviso not appearing in previous or later Appropriation Acts. The proviso in the Act approved June 1, 1922, reads (42 Stat. 603):

> *Provided,* That no part of this appropriation shall be available for payment for the transportation on steam vessels of any seamen in

excess of the amount agreed upon between the consular officer and the master of the vessel in each individual case; and hereafter the amount so agreed upon not in excess of the lowest passenger rate of such vessel and not in excess of 2 cents per mile, together with such additional compensation for transporting sick or disabled seamen as is now provided by law, shall in each case constitute the lawful rate.

"Consular officer" is defined by statute to include "consuls general, consuls, vice consuls, interpreters in consular offices, student interpreters, and consular agents, *and none others.*" (Italics ours.) (Act of February 5, 1915, c. 23, Sec. 6, 38 Stat, 806; U.S.C., Title 22, Sec. 51.)

Deputy collectors of customs are appointed by the Secretary of the Treasury, who prescribes and designates their duties where they are not otherwise defined by law (U.S.C., Title 19, Sec. 6). Article 1319 of Customs Regulations, 1931, states their duties to be "under the general supervision and direction of the collectors, receive entries of merchandise, collect duties, fees, and other moneys, enter and clear vessels, issue documents to vessels, and perform all other services prescribed by law, the regulations of the department, or the instructions of the collector."

From this review it clearly appears that deputy collectors of customs are not consular officers. The certificates upon which the present claim alone is

rested are without authority of law.[3] Any payment for the services rendered, if there be the right thereto, must be rested upon a cause other than an indebtedness evidenced by the certificate itself.

The only authority we have found discussing this question is an opinion, dated February 20, 1902, of the Comptroller of the Treasury (8 Dec. Comp. Tr. 547). It is there stated:

> There being in Alaska *no United States consular officers, these laws and regulations have no direct application thereto* [italics ours], but since the appropriation is available for the relief and protection of *shipwrecked* American seamen in Alaska, the method of relief, especially if furnished by or through officers of customs, becomes peculiarly a matter for regulation by the Secretary of the Treasury.
>
> So far as I am aware no instructions have been issued to any United States officers residing in Alaska governing these matters, although it seems evident from the letter you transmit that questions of relief not infrequently come before collectors or deputy collectors of customs, who from their relations to shipping and seamen would most naturally be called upon in regard thereto. Whether such instructions are necessary or

[3] By Section 84 of the Act of July 1, 1902 (32 Stat. 711), customs officers were substituted for consular officers in the administration of laws relating to seamen in the Philippine Islands. By Section 9 of the Act of August 21, 1916 (39 Stat. 527, 529), powers of consular officers in the administration of seamen's laws in the Panama Canal Zone were conferred on the shipping commissioners.

desirable is a matter to be determined by you, but it may be suggested that officers of customs in interesting themselves in behalf of shipwrecked American seamen should be guided as far as possible by the regulations set out in the United States Consular Regulations, which, while prepared for the guidance of consular officers, have wherever applicable the force of law.

* * * * *

6. The answer to the sixth question would seem to be outside the province of this office, being a matter of administrative detail, and being intimately connected with what I have said in the first part of my letter, namely, that while the appropriation for the relief of American seamen has been extended to shipwrecked American seamen in Alaska, the law is silent as to its administration, thus leaving it a matter of executive authority rather than of accounting.

So far as we have been able to ascertain, no specific regulation has been issued. It is a fact, however, that certificates of the general nature of the one here sued upon have been issued by collectors of customs or their deputies in cases where seamen were returned from Alaskan ports to ports of the United States upon their requests, and, save in instances where the return has been made upon a commonly owned vessel, the certificates have been recognized. Apparently no consideration was ever given to the question whether the appropriations were available for the return of shipwrecked sea-

men upon another vessel of the same owner until the matter was first considered by the Comptroller General in a series of opinions [4] which denied that the appropriations were available in such circumstances, as the owner was performing that duty only which the law had placed upon him.

If the ruling of the appellate court below is right, the consideration of any other questions suggested appears unnecessary.

II

Since the question first received consideration, the Comptroller General, the officer charged with the duty of making disbursements from the appropriation set apart by Congress to fulfill the purposes of the statute, has consistently ruled that when the owner of the wrecked vessel returns the members of the crew by another of its vessels, such owner may not be reimbursed from public funds for the cost of such transportation. See 3 Comp. Gen. 148; 4 Comp. Gen. 118; 4 Comp. Gen. 252; 4 Comp. Gen. 390; 4 Comp. Gen. 483; 4 Comp. Gen. 632; 5 Comp. Gen. 623; 6 Comp. Gen. 723; 7 Comp. Gen. 3; 7 Comp. Gen. 363; 8 Comp. Gen. 194. Moreover, the Consular Regulations of the United States,[5] affecting the performance of duties by consuls and

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[4] See page 12, *infra*.

[5] Consular Regulations are issued by the President under authority of R.S., Sec. 1752 (U.S.C., Title 22, Sec. 132), and have the force of law. Cf. *Ex parte Reed*, 100 U.S. 13, 22.

consular agents and containing directions concerning the issuance of certificates for compensation, have recognized the force of these rulings and are in accord with them. See Consular Regulations, March 1928, XVI (Note 2); and see also Consular Regulations, February 1931, XV (Notes 14, 15, 16), XVI (Note 3). The rulings of the Comptroller General and the Consular Regulations determine the limitations within which the controlling appropriations may be disbursed. They determine that the liability of the United States for the transportation of shipwrecked seamen is dependent upon a condition of distress or destitution which cannot exist if the owner of the shipwrecked vessel is in a position to furnish the transportation necessary to repatriate the crew of one of its own shipwrecked vessels.*

Subsequent to the promulgation of these rulings, Congress by the Act of May 7, 1930, c. 227, 46 Stat.

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* While there is testimony in the record that in 1909 or 1910 and in 1918, payments were made to petitioner as compensation for repatriating the crews of ships owned and operated by it (R. 39), there is no finding to this effect. Nor is there any indication that the alleged payments were made with full knowledge of all the facts bearing on the liability of the Government. So far as we are advised, there is no instance wherein there has been recognition of the right of an owner of a vessel on which destitute seamen last served to collect from the United States the expenses of their repatriation; on the contrary, we are informed that in every case, except in a case of established desertion (3 Comp. Gen. 936), the accounting officers of the Government have held that the owner may not recover on such a claim under the seamen relief appropriations.

261 (U.S.C.Sup. VI, Title 46, Sec. 679), reenacted the previously related statutes respecting compensation of vessels for transporting seamen. The consistent construction and administration of these statutes by the officers charged with their application should be regarded, in view of the reenactment of the legislation, as an authoritative interpretation. See *Massachusetts Mutual Life Ins. Co.* v. *United States,* 288 U.S. 269, 273; *Costanzo* v. *Tillinghast,* 287 U.S. 341, 345; *Interstate Commerce Commission* v. *New York, N. H. & H. R. Co.,* 287 U.S. 178, 190.

III

Except for proof only that the *Depere* struck a rock, took water, and was beached, the record is silent as to the cause of the disaster, whether it occurred without fault or negligence on the part of the petitioner or master, as to the reason for removing the crew other than a request to do so, and as to what subsequently happened to the vessel. Reliable shipping publications inform us that the owner immediately following the disaster sent salvage vessels, which promptly floated and towed the *Depere* to Ketchikan, which was the port to which she was bound, when the accident occurred, and later to Seattle, which we assume was her port of destination, where she arrived December 6, 1929. The cargo is said to have been delivered in apparently sound condition and it is to be assumed that freight was earned and paid. The *Depere* was re-

paired and placed in service. She was never abandoned, as her master and chief engineer must have stayed by, for they were not listed among the crew brought to port by the Coast Guard cutter and later returned to Seattle. (See New York Maritime Register for related periods.) In the absence of statutory authority, these circumstances would have required the owner to return the crew at its own expense. *The Dawn,* Fed. Cas. No. 3666; *The Massasoit,* Fed. Cas. No. 9260; *The Elizabeth,* 2 Dods. 403; Kay, Shipmasters and Seamen (1875 ed.), p. 611.

It is urged that Section 4526, R.S., as amended (U.S.C., Title 46, Sec. 593) modifies this general rule. That section reads:

> SEC. 593. *Termination of wages by loss of vessel; transportation to place of shipment.*—In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the loss or wreck of the vessel, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period. Such seaman shall be considered as a destitute seaman and shall be treated and transported to port of shipment as provided in sections 678, 679, and 681.

The first sentence of this section first appeared as Section 33 of the Act of June 7, 1872 (c. 322, 17 Stat. 269), and carried forward as Section 4526 of the Revised Statutes. The last sentence was pro-

vided by the Act of December 21, 1898 (c. 28, Sec. 3, 30 Stat. 755). The provisions of Section 593 were passed for the relief of seamen and not the owner of the vessel. In *Brown* v. *Chandler,* Fed. Cas. No. 1998, considering R.S. Sec. 4526, this construction was placed upon it:

> It is evident, from the terms of section 4526 and the section which precedes it, that their principal object was to abolish the ancient rule of the sea which made the right to wages depend upon the earning of freight by the vessel. Section 4525 so enacts in terms. The succeeding section provides that in case of wreck and consequent termination of the seaman's service he shall be paid up to the time of such termination, but not for any further period. We have already seen that by the maritime law the owner was liable for the faults of the master as for his own. Did the statute intend to modify this rule, and pro tanto take away rights from the seaman which under the maritime law, the rigor of which they were mitigating, he would have possessed? If so, we can only gather this intent by construing the statute according to its very letter. And yet we have seen that in the construction of analogous statutes language equally explicit and comprehensive has been held to be subject to exceptions plainly required by justice or the general rules of law. Even with respect to the section under consideration it is not denied that an exception must be admitted in cases where the owner is personally

> in fault. If so, why not also where the fault is that of the master, for whose acts the owner is responsible? The more rational and just view of the intention of congress would seem to be that the two sections were intended to enlarge and not to diminish the rights of the seaman. That so far as the rule of the maritime law which made the right to wages dependent on the earning of freight, that rule was to be abolished or so far modified as to allow him to recover wages for the period of his actual service. But the ancient rule was not to be altered to his disadvantage, and that where by that rule he was entitled not only to his wages earned but to an indemnity for the breaking up of the voyage, his rights were to be preserved intact. All the statutory provisions on this subject would thus be made consistent and harmonious. The seaman would not be entitled to wages where the voyage or vessel is lost by force majeure, except for the service already performed. * * *

The purpose of the amending provisions of the Act of December 21, 1898, is stated in the Committee's Report (House Report No. 1657, 55th Cong., 2d sess., p. 3):

> This section is the present custom in most cases where the shipwrecked seaman depends on the consul to send him home, though in cases where the seaman has wages coming to him he is usually required to turn them in toward meeting the expenses of his passage home. The British law is based on

> the theory that where by an act of God the sailor is left in a foreign land the Government should bring him home. Such is the theory of this section. This section and others are drafted with a view to treating seamen on American vessels as Americans in fact, or as such prospectively through naturalization.

The prior practice had been not to treat the seaman as destitute where he had wages coming to him. The amendment placed the American seaman on a parity with the British seaman by permitting his return without using accrued wages for that purpose. There is nothing appearing that the owner or master was to be relieved of the primary obligation which previously existed. This was the result reached by the District Court. While there are District Court cases holding a contrary view, *The Quaker City,* 290 Fed. 409; *The Helen Fairlanb,* 251 Fed. 412; *The Charles D. Lane,* 106 Fed. 746; *Kelly* v. *Otis,* 23 Fed. 903, we submit that, as the petitioner only performed an obligation which the law imposed upon him, he is not entitled to be reimbursed for his expenses. This apparently is the basis upon which the Comptroller General's ruling was made. We may add that it is also the rule which obtains in Great Britain, and especially is this true when the loss of the vessel is not complete. Kay, Shipmasters and Seamen (1875 ed.), p. 635. "Until 1925 the wages of a seaman ceased on the wreck of his ship, but he was returned to the

United Kingdom at the expense of the shipowner." Scrutton, L. J., in *The Croxteth Hall*, L.R., 1930, P.D., p. 201.

CONCLUSION

It is submitted that the petitioner is not entitled to recover the transportation charges here sued for, and that the judgment of the court below should be affirmed.

Respectfully submitted.

J. CRAWFORD BIGGS,
Solicitor General.
ANGUS D. MACLEAN,
Assistant Solicitor General.
J. FRANK STALEY,
LUCIAN Y. RAY,
Attorneys.

NOVEMBER 1933.

APPENDIX

STATUTES INVOLVED

Sec. 4578, Revised Statutes, as amended (U.S.C., Title 46, Sec. 679):

> *Transportation of destitute seamen to United States.*—All masters of vessels of the United States, and bound to some port of the same, are required to take such destitute seamen on board their vessels, at the request of consular officers, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding $10 for each person for voyages of not more than thirty days, and not exceeding $20 for each person for longer voyages, as may be agreed between the master and the consular officer, when the transportation is by a sailing vessel; and said consular officer shall issue certificates for such transportation, which certificates shall be assignable for collection. If any such destitute seaman is so disabled or ill as to be unable to perform duty, the consular officer shall so certify in the certificate of transportation, and such additional compensation shall be paid as the Comptroller General of the United States shall deem proper. Every such master who refuses to receive and transport such seamen on the request or order of such consular officer shall be liable to the United States in a penalty of $100 for each seaman so refused. The certificate of any such consular officer, given under his hand and official seal, shall

be presumptive evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than one man to every one hundred tons burden of the vessel on any one voyage or to take any seaman having a contagious disease.

Act of January 3, 1923, c. 21, Title I, 42 Stat. 1072 (U.S.C., Title 46, Sec. 680):

That hereafter the amount agreed upon between the consular officer and the master of the vessel in each individual case not in excess of the lowest passenger rate of such vessel and not in excess of 2 cents per mile, together with such additional compensation for transporting sick or disabled seamen as is now provided by law, shall in each case constitute the lawful rate for transportation on steam vessels.

Sec. 4579, Revised Statutes, as amended (U.S.C., Title 46, Sec. 681):

Additional allowance for transportation of destitute seamen.—Whenever distressed seamen of the United States are transported from foreign ports where there is no consular officer of the United States, to ports of the United States, there shall be allowed to the master or owner of each vessel, in which they are transported, such reasonable compensation, in addition to the allowance now fixed by law, as shall be deemed equitable by the Comptroller General of the United States.

Sec. 4577, Revised Statutes, as amended (U.S.C., Title 46, Sec. 678):

Subsistence to destitute seamen; return to United States.—It shall be the duty of the

> consuls and vice consuls, from time to time, to provide for the seamen of the United States, who may be found destitute within their districts, respectively, sufficient subsistence and passages to some port in the United States, in the most reasonable manner, at the expense of the United States, subject to such instructions as the Secretary of State shall give. The seamen shall, if able, be bound to do duty on board the vessels in which they may be transported, according to their several abilities.

Appropriation Acts providing relief for shipwrecked American seamen on the coast of Alaska have been enacted annually since 1896. Except in 1922 and 1923, the provisions of these Appropriation Acts with respect to the Territory of Alaska have been substantially the same. The Act making appropriations for the Department of State for the fiscal year ending June 30, 1930, approved January 25, 1929 (c. 102, 45 Stat. 1094, 1098), reads:

> For relief, protection, and burial of American seamen in foreign countries, in the Panama Canal Zone, and in the Philippine Islands, and shipwrecked American seamen in the Territory of Alaska, in the Hawaiian Islands, in Porto Rico, and in the Virgin Islands, $70,000.

The similar appropriations made in 1922 and 1923 (c. 204, 42 Stat. 599, 603; c. 21, 42 Stat. 1068, 1072), save for the amount, contain a proviso not appearing in previous or later Appropriation Acts, the Act approved June 1, 1922, reading as follows:

> For relief and protection of American seamen in foreign countries, and in the Panama Canal Zone, and shipwrecked American sea-

men in the Territory of Alaska, in the Hawaiian Islands, Porto Rico, the Philippine Islands, and the Virgin Islands, $220,000: *Provided,* That no part of this appropriation shall be available for payment for the transportation on steam vessels of any seamen in excess of the amount agreed upon between the consular officer and the master of the vessel in each individual case; and hereafter the amount so agreed upon not in excess of the lowest passenger rate of such vessel and not in excess of 2 cents per mile, together with such additional compensation for transporting sick or disabled seamen as is now provided by law, shall in each case constitute the lawful rate.

Section 4526, R.S., as amended (U.S.C., Title 46, Sec. 593):

Termination of wages by loss of vessel; transportation to place of shipment.—In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the loss or wreck of the vessel, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period. Such seaman shall be considered as a destitute seaman and shall be treated and transported to port of shipment as provided in sections 678, 679, and 681.

U.S. GOVERNMENT PRINTING OFFICE: 1939